

Remarks

Claims 1-14 are pending in this application. Claims 1 and 3 have been amended. Claim 3 has been amended to include the structural formula whose omission was inadvertent.

The applicants wish to thank Examiner Fubara for the courtesies extended to their undersigned representative during an interview held on January 14, 2003. The Interview Summary form accurately reflects the issues discussed and the proposed amendment which it was agreed would be submitted for the examiner's consideration.

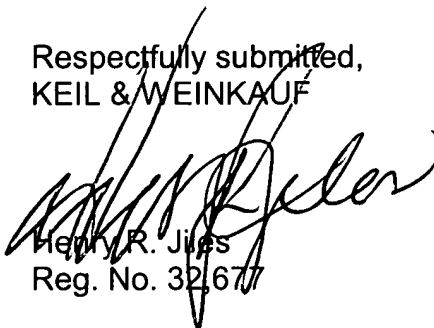
Claims 1-5, 11 and 14 stand rejected under 35 U.S.C. 102(b) as being anticipated by Uhl et al. '969. This rejection is traversed. By the foregoing amendment the term "comprising " has been replaced by - - consisting essentially of - - which excludes that which would materially change the character of the composition. This situation is on all fours with the decision of In re De Lajarte 143 U.S.P.Q. 256, citing In re Janakirama-Rao 137 U.S.P.Q. 893 wherein the court held that where the inclusion of additional ingredients in the prior art composition constituted a material difference, the recitation of the term "consisting essentially of " in the claims avoided anticipation. In the instant case, Uhl et al. characterize the N-methylol (meth)acrylamide or derivatives as being essential in their compositions (see col. 1, line 20 et seq). The omission of the N-methylol (meth)acrylamide or derivatives would render the compositions of Uhl et al. useless for the disclosed purpose. And the inclusion of the N-methylol (meth)acrylamide or derivatives would render the applicants' composition unsuitable for the use disclosed herein. Favorable reconsideration is solicited.

Claims 1-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tropsch et al. in view of Kumar et al. This rejection is traversed. Logic and the cases cited by the examiner support a holding of obviousness where applicants are claiming a composition obtained by simply combining the ingredients disclosed by two references each of which are useful for the same purpose, but not the present fact pattern. In the instant case the combination of the cited prior art would give a composition including the ingredients from each of the references including the silicone compound disclosed by Kumar. Such a combination would not render the instantly claimed composition obvious. There is no suggestion to make up for the deficiencies of Tropsch et al. by incorporating the particular bifunctional crosslinker disclosed by Kumar et al. Moreover, the inclusion of the silicone compound disclosed by Kumar et al. is avoided by the use of the expression "consisting essentially of". Favorable reconsideration is solicited.

Please find attached a check for \$410.00 for a two month extension of time.

To the extent necessary, applicant(s) petition for an Extension of Time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such deposit account.

Respectfully submitted,
KEIL & WEINKAUF



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

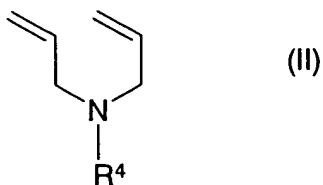
Please amend claims 1 and 3 as follows:

1.(thrice amended) A skin composition or dermatological preparation selected from cosmetic compositions for cleansing the skin, cosmetic compositions for the care and protection of the skin, nail care compositions, and preparations for decorative cosmetics,[consisting] consisting essentially of, in addition to customary additives, at least one copolymer obtained by

- (i) free-radically initiated copolymerization of a monomer mixture comprising
 - (a) 1 to 99.99% by weight of at least one monomer chosen from N-vinylimidazoles and diallylamines, optionally in partially or completely quarternized form;
 - (b) 0 to 98.88% by weight of at least one neutral or basic water-soluble monomer which is different from (a);
 - (c) 0 to 40% by weight of at least one unsaturated acid or unsaturated anhydride,
 - (d) 0 to 50% by weight of at least one-free radically copolymerizable monomer which is different from (a), (b) or (c); and
 - (e) 0.01 to 10% by weight of at least one monomer which acts as crosslinker and has at least two ethylenically unsaturated nonconjugated double bonds; and

- (ii) subsequent partial or complete quarternization and protonation of the polymer in the case where the monomer (a) is unquarternized or only partially quarternized.

3.(twice amended) The preparation as claimed in claim 1, wherein monomer (a) is at least on diallylamine derivative of the formula (II),

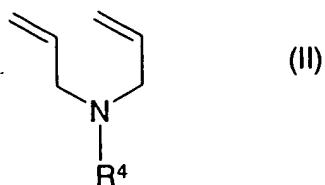


in which the radical R^4 is C_1 - C_{24} alkyl.

COPY OF ALL CLAIMS

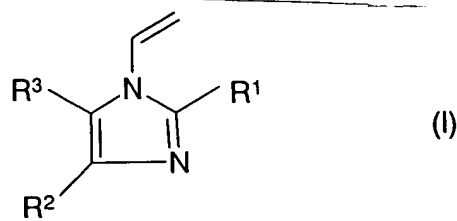
1. A skin composition or dermatological preparation selected from cosmetic compositions for cleansing the skin, cosmetic compositions for the care and protection of the skin, nail care compositions, and preparations for decorative cosmetics, consisting essentially of, in addition to customary additives, at least one copolymer obtained by
 - (i) free-radically initiated copolymerization of a monomer mixture comprising
 - (a) 1 to 99.99% by weight of at least one monomer chosen from N-vinylimidazoles and diallylamines, optionally in partially or completely quarternized form;
 - (b) 0 to 98.88% by weight of at least one neutral or basic water-soluble monomer which is different from (a);
 - (c) 0 to 40% by weight of at least one unsaturated acid or unsaturated anhydride,
 - (d) 0 to 50% by weight of at least one-free radically copolymerizable monomer which is different from (a), (b) or (c); and
 - (e) 0.01 to 10% by weight of at least one monomer which acts as crosslinker and has at least two ethylenically unsaturated nonconjugated double bonds; and
 - (ii) subsequent partial or complete quarternization and protonation of the polymer in the case where the monomer (a) is unquarternized or only partially quarternized.

2. The preparation as claimed in claim 1, wherein the protonation as in (ii) takes place during formulation of the preparation.
3. The preparation as claimed in claim 1, wherein monomer (a) is at least on diallylamine derivative of the formula (II),



in which the radical R^4 is C_1 - C_{24} alkyl.

4. The preparation as claimed in claim 1, wherein monomer (a) is at least one N-vinylimidazole derivative of the formula (I)



in which the radicals R^1 to R^3 independently of one another are hydrogen, C_1 - C_4 -alkyl or phenyl.

5. The preparation as claimed in claim 1, wherein monomer (b) is at least one N-vinylactam.
6. The preparation as claimed in claim 1, chosen from cosmetic compositions for cleaning of the skin.
7. The preparation as claimed in claim 6, chosen from soaps, syndets, liquid

washing, shower and bath preparations.

8. The preparation as claimed in claim 1, chosen from cosmetic compositions for the care and protection of the skin, nailcare compositions, and preparations for decorative cosmetics.
9. The preparation as claimed in claim 8, chosen from skincare compositions, personal hygiene care compositions, footcare compositions, sunscreens, repellants, shaving compositions, depilatories, anti-acne compositions, makeup, mascara, lipsticks, eyeshadows, kohl pencils, eyeliners, blushers, powders and eyebrow pencils.
10. The preparation as claimed in claim 9, wherein the skincare compositions are chosen from W/O or O/W skin creams, day and night creams, eye creams, anti-wrinkle creams, moisturizers, bleaching creams, vitamin creams, skin lotions, care lotions and moisturizing lotions.
11. The preparation as claimed in claim 1, wherein the copolymer is used in the form of a W/O emulsion.
12. The preparation as claimed in claim 11, wherein the copolymer has been polymerized in the emulsion or suspension.
13. The preparation as claimed in claim 12, wherein the oil phase of the emulsion or suspension comprises a cosmetic oil.
14. A skin composition or dermatological preparation comprising in addition to customary additives, at least one copolymer obtained by
 - (i) free-radically initiated copolymerization of a monomer mixture consisting

of

- (a) 1 to 99.99% by weight of at least one monomer chosen from N-vinylimidazoles and diallylamines, optionally in partially or completely quarternized form;
 - (b) 0 to 98.88% by weight of at least one neutral or basic water-soluble monomer which is different from (a);
 - (c) 0 to 50% by weight of at least one free-radically copolymerizable monomer which is different from (a), (b) or (c);
 - (d) 0.01 to 10% by weight of at least one monomer which acts as crosslinker and has at least two ethylenically unsaturated nonconjugated double bonds; and
- (ii) subsequent partial or complete quarternization and protonation of the polymer in the case where the monomer (a) is unquarternized or only partially quarternized.